



Consumer Protection Act 1987

1987 CHAPTER 43

PART II

CONSUMER SAFETY

17 Forfeiture: Scotland.

- (1) In Scotland a sheriff may make an order for forfeiture of any goods in relation to which there has been a contravention of a safety provision—
 - (a) on an application by the procurator-fiscal made in the manner specified in section 310 of the ^{M1}Criminal Procedure (Scotland) Act 1975; or
 - (b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.
- (2) The procurator-fiscal making an application under subsection (1)(a) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the goods to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the goods should not be forfeited.
- (3) Service under subsection (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1975.
- (4) Any person upon whom notice is served under subsection (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, goods to which an application under this section relates shall be entitled to appear at the hearing of the application to show cause why the goods should not be forfeited.
- (5) The sheriff shall not make an order following an application under subsection (1)(a) above—
 - (a) if any person on whom notice is served under subsection (2) above does not appear, unless service of the notice on that person is proved; or

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- (b) if no notice under subsection (2) above has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.
- (6) The sheriff shall make an order under this section only if he is satisfied that there has been a contravention in relation to those goods of a safety provision.
- (7) For the avoidance of doubt it is declared that the sheriff may infer for the purposes of this section that there has been a contravention in relation to any goods of a safety provision if he is satisfied that any such provision has been contravened in relation to any goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (8) Where an order for the forfeiture of any goods is made following an application by the procurator-fiscal under subsection (1)(a) above, any person who appeared, or was entitled to appear, to show cause why goods should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; [F1 and section 182(5) (a) to (e) of the Criminal Procedure (Scotland) Act 1995 shall apply to an appeal under this subsection as it applies to a stated case under Part X of that Act].
- (9) An order following an application under subsection (1)(a) above shall not take effect—
- (a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
 - (b) if an appeal is made under subsection (8) above within that period, until the appeal is determined or abandoned.
- (10) An order under subsection (1)(b) above shall not take effect—
- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1975; or
 - (b) if an appeal is made within that period, until the appeal is determined or abandoned.
- (11) Subject to subsection (12) below, goods forfeited under this section shall be destroyed in accordance with such directions as the sheriff may give.
- (12) If he thinks fit, the sheriff may direct that the goods be released, to such person as he may specify, on condition that that person does not supply those goods to any other person otherwise than as mentioned in section 46(7)(a) or (b) below.

Textual Amendments

F1 Words in s. 17(8) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 68**

Modifications etc. (not altering text)

C1 Ss. 14-18 amended (3.10.1994) by S.I. 1994/2328, **reg. 11(b)**
 S. 17 excluded (1.1.1995) by S.I. 1994/2326, **reg. 4(1)** (which said S.I. 1994/2326 was revoked (15.5.2002) by S.I. 2002/1144, **reg. 1(2)**, **Sch. 11 para. 3**)
 S. 17 restricted (1.1.1995 until end of 1996) by S.I. 1994/2326, **reg. 5**
 S. 17 restricted (24.2.1995) by S.I. 1995/204, **reg. 10(11)**
 S. 17 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 13(1)**
 S. 17 excluded (7.6.2000) by S.I. 2000/1315, **reg. 19(2)**
 S. 17 restricted (13.6.2002) by S.I. 2002/618, **reg. 62**
 S. 17 modified (13.6.2002) by S.I. 2002/618, **reg. 63**

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S. 17 applied (with modifications) (15.5.2002) by S.I. 2002/1144, regs. 2(2), 16(1)-(3), Sch. 10 paras. 1, 3

C2 S. 17 applied (with modifications) (17.8.2015) by The Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553), reg. 1, Sch. 7 paras. 1(d), 2

Marginal Citations

M1 1975 c. 21.

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